IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

(1) F.A.O. No. 5494 of 2006

United India Insurance Company Limited.

..... Appellant

Versus

Lieutenant Colonel (Doctor) Mrs.Anu Lal and others.

..... Respondents

(2) F.A.O. No. 5495 of 2006

United India Insurance Company Limited.

..... Appellant

Versus

Lieutenant Colonel (Doctor) Mrs.Anu Lal and others.

..... Respondents

CORAM: Hon'ble Mr.Justice Uma Nath Singh
Hon'ble Mr.Justice Mahesh Grover

....

Present: Shri V.Ramswaroop, Advocate for the appellant.

....

Mahesh Grover,J.

This judgment will dispose of the above mentioned two appeals which have been preferred against separate awards dated 14.9.2006 of Motor Accident Claims Tribunal, Chandigarh (hereinafter described as

`the Tribunal') passed in M.A.C.T. Case Nos. 62 and 63 of 24.8.2004 arising out of one accident.

On 14.2.2004, Lieutenant Colonel (Doctor) Sanjay Lal, his wife Lieutenant Colonel (Doctor) Mrs.Anu Lal and their son Master Kartik Lal were travelling in Maruti Car bearing registration No. MP-07-E-1982 and were going from Mahajan to Lonaksar. The car being driven by Dr.Sanjay Lal met with an accident with a truck bearing registration No. RJ-23-G-1206 which came from the opposite side and was being driven in a rash and negligent manner by Bhagirath Singh (respondent no.3 in F.A.O.No.5494 of 2006 and respondent no.2 in F.A.O.No.5495 of 2006). As a result of the accident, Dr.Sanjay Lal sustained serious injuries and succumbed to them on his way to the hospital, while his wife Dr.Anu Lal was badly injured and Master Kartik Lal also received injuries on his head and liver. F.I.R.No.11 dated 14.2.2004 was lodged with Ppolice Station, Maahajan, District Bikaner (Rajasthan). Two separate claim petitions were filed claiming compensation on account of death of Dr. Sanjay Lal and for the injuries sustained by Dr.Anu Lal.

The claim petitions were contested by Bhagirath Singh, who was owner and driver of the offending truck. He denied the averments made in the claim petitions and pleaded that the accident had actually occurred on account of the negligence of the deceased himself.

The appellant filed separate written statements to plead that the driver of the offending vehicle was not holding a valid driving licence and that the claim petitions were vague. The accident was denied in totality.

On the pleadings of the parties, the following issues were framed in M.A.C.T. Case No.62 of 2004:-

1. Whether Lieutenant Colonel (Doctor) Anu Lal sustained injuries in motor vehicle accident, which took place on 14.2.2004 on the way to Suratgarh to Bikaner on account of rash and negligent driving of Truck No.RJ-23-G-1206 by respondent No.1?OPP
2. Whether the claimant is entitled to be compensated for the injuries, treatment suffered by her in motor vehicle accident, if so to what extent and from whom?OPP
3. Whether respondent no.1 was not holding a valid and effective driving licence at the time of accident? If so, its effect?OPR
4. Relief.

In M.A.C.T. Case No.63 of 2004, the Tribunal struck the following issues:-

1. Whether Lieutenant Colonel (Doctor) Sanjay Lal died on account of injuries sustained by him in motor vehicle accident, which took place on 14.2.2004 on the way to Suratgarh to Bikaner on account of rash and negligent driving of Truck No.RJ-23-G-1206 by respondent No.1?OPP
2. Whether the claimants are entitled to be compensated for the death of Dr. S. Lal? If so to what extent and from whom?OPP
3. Whether respondent no.1 was not holding a valid and effective driving licence at the time of accident? If so, its effect?OPR

4. Relief.

The Tribunal found that Bhagirath Singh was guilty of rash and negligent driving and that he was holding a valid driving licence at the time of accident. Accordingly, it awarded a sum of Rs.50.65 lakhs on account of death of Dr.Sanjay Lal, while Dr.Anu Lal was allowed a compensation of Rs.6,00,000/- on account of injuries sustained by her. The aforestated amounts were directed to be paid along with interest at the rate of 7.5% per annum. The appellant-Insurance Company was held liable to satisfy the awards.

Learned counsel for the appellant has raised a solitary contention on the issue of quantum of compensation as assessed by the Tribunal. It was contended that the future income of the deceased has also been taken into consideration to determine the amount of compensation. Besides, some of perks to which the deceased was entitled to, could not be considered as part of the income for determining the compensation. He also contended that the Tribunal has based its findings on conjectures while awarding compensation for the injuries sustained by Dr.Anu Lal.

We have heard learned counsel for the appellant and are not impressed with the submissions made by him. The salary of the deceased was proved by cogent evidence on record. An amount of Rs.6410/- was being deducted on account of income tax, whereas deductions of Rs.247/- and Rs.108/- on account of licence fee and furniture were being made from the gross salary of Rs.44451/- of the deceased for the month of January,2004. The other subscriptions which the deceased was making for himself and his family were also deducted and the effective salary was taken to be Rs.28096/- which was rounded of as Rs.28100/-. The Tribunal took

into consideration the income the deceased would have got at the time of his retirement by gaining in stature in service which would have beenRs.56200/-.After clubbing this amount with the amount determined afore-stated, i.e., Rs.28100/-, a figure of Rs.84300/- was arrived at and the average of these two incomes was worked out to Rs.42150/-. By determining the income aforementioned and deducting 1/3rd on account of personal expenses, the dependency was worked out to Rs.28100/- per month or Rs.3,37,200/- per year. The age of the deceased was 41 years and a multiplier of `15' was applied to come to a figure of Rs.50,58,000/-.

While determining the income in the aforesaid manner, the Tribunal relied upon a judgment of Hon'ble the Supreme Court of India reported as 2004(1) A.C.C. 396 – Sarla Dixit Versus Balwant Yadav. Learned counsel for the appellant could not show anything which could persuade us to hold that the observations of the Supreme Court in the above judgment were not applicable to the present case.

In so far as the case of Dr.Anu Lal is concerned, she was placed in lower medical category (E-4) on account of injuries sustained by her on her left eye. Besides, she had suffered serious injuries which are as follows:-

1. Fracture of right collies wrist
2. Fracture of both bones of left arm
3. Haemetoma of left eye
4. Facio maxilary injury
5. Fracture of right maxilla and right mandible
6. Chest injury
7. Penetrating injury of left eye.

After the accident, she was brought to the Military Hospsital and was treated in the Intensive Care Unit from where she was shifted to Army Hospital, R.& R., Delhi Cantonment and was subjected to many surgeries as is revealed from Exhibit PH/2. She was discharged on 5.3.2004 and was advised six weeks' sick leave and was instructed to go to Chennai for further treatment. She was hospitalised in Military Hospital, Chennai from 6.3.2004 and was discharged on 9.3.2004 for further admission. She was treated extensively in the hospital at Chennai. Exhibit PH-8 is the Medical Board Proceedings placing her in the lower medical category. The Tribunal relied upon the judgment of the Hon'ble Supreme Court reported as 1995(2) P.L.R. 298 -R.D. Nattangadi Versus Pest Control (India) Pvt.Ltd. and awarded compensation under the following heads:-

1. Damages for mental and physical shock, pain and sufferings = Rs.2,00,000/-
2. Damages on account of not being able to pursue her normal activities = Rs.2,00,000/-
3. Damages for the loss of expectation of normal longevity of life = Rs.1,00,000/-
4. Inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life = Rs.1,00,000/-.

It is a settled proposition of law that in a case of injuries, the amount of compensation has to be assessed under the pecuniary and non-pecuniary heads. Under the pecuniary head, compensation for expenses on account of medical treatment etc. can be determined with some amount of precision, whereas the determination of compensation under the non-

pecuniary head which includes shock, pain, loss of amenities of life and other abstract causes lies in the realm of conjectures. The Court is guided by various factors, such as status of the person, the permanent disability, its effect on the enjoyment of life of such person. The injured in the instant case was a Lieutenant Colonel (Mrs.Anu Lal) and she was doctor by profession. She was not only widowed in the prime of her life, but the injuries have also adversely impacted her brilliant career which she would have enjoyed, had she not met with the accident.

In the back-drop of the afore-stated factors where the injured has suffered 25% permanent disability, the amount of Rs.6,00,000/- cannot be treated to be excessive.

For the reasons mentioned above, we do not find any justifiable ground to interfere with the impugned awards and consequently, both the appeals, being devoid of any merit, are dismissed in limine.

(Uma Nath Singh)
Judge

(Mahesh Grover)
Judge

December 18,2006
"SCM"